
IOWA UTILITIES BOARD
Customer Service Section

Docket No.: FCU-2012-0019 (C-2012-0129)
Utility: Qwest Corporation d/b/a/
CenturyLink, AireSpring Inc.,
Dumont Telephone Company,
Iowa Network Services
File Date: September 25, 2012
Memo Date: February 15, 2013

TO: The Board

FROM: Tara Ganpat-Puffett, Larry Stevens, Mary Whitman

SUBJECT: Request for Formal Proceeding

I. Background

On December 27, 2012, the Office of Consumer Advocate (OCA) requested that the Board docket a rural call completion complaint (C-2012-0129) for formal investigation. The following chart identifies the facilities involved in this complaint, phone numbers, and carriers, if known:

Facility Name	Phone No.	Carrier (Local and Long Distance) if known
Rehabilitation Center of Allison	319-267-2791 voice (terminating) 319-267-2688 fax (terminating)	Dumont Telephone Company (local)
Waverly Health Care	319-352-4340 and 319-352-4120 (originating)	CenturyLink (local) (LD not known)
Shell Rock Clinic	319-885-6530 (originating)	CenturyLink (local)(LD not known)

The complaint was filed with the IUB on September 25, 2012, by Kathy Miller, Administrator of the Rehabilitation Center of Allison (the facility), Iowa, alleging that the facility was not receiving phone calls and faxes from the Shell Rock Clinic in Shell Rock, and the Waverly Health Center in Waverly, Iowa. Ms. Miller stated that persons calling the Allison facility from the Shell Rock and Waverly Health Center locations have reported that sometimes the Allison facility's phone never rings, and sometimes it rings, but no one answers on the line.

Ms. Miller also stated that, according to the facility's local telephone provider, Dumont Telephone Company (Dumont), the source of the problem is with the

long distance carriers and that both the Shell Rock and Waverly facilities used the same long distance carrier, AireSpring, a reseller of CenturyLink services.

On September 28 and October 2, 2012, staff forwarded the complaint to Dumont, Iowa Network Services, Inc. (INS), CenturyLink and AireSpring for their response.

INS states in its response of October 12, 2012, that according to its Engineering Department, there were no calls from 319-352-4340 (the Waverly Health Center's number) to the Dumont/Allison customer 319-267-2791. INS stated that it conducted testing of the numbers involved and concluded that the call termination issues occurred before the calls reached its network. INS stated it shows calls from 319-352-4120 (CenturyLink) and 319-885-6530 (Shell Rock – CenturyLink PIC) to Dumont/Allison customer 319-267-2791. However, this is not indicative of the number of calls placed from those numbers. (INS can only report on those calls that reach its network).

On October 15, 2012, CenturyLink responded stating that after receiving the complaint, tickets were generated and escalated within the CenturyLink Network department. CenturyLink stated investigation was done on calls provided by CenturyLink long distance access. According to CenturyLink's response, call detail records for all telephone numbers were reviewed for calls to the 319-267-2791 number and the calls had duration with no report of any failure. CenturyLink also stated it reviewed the routing on the calls and they were all routed using an underlying carrier. CenturyLink stated its technician did test calls with the underlying carrier, and all calls completed successfully. In addition, CenturyLink also stated it attempted to place test calls with the customer, but has been unable to get a response from the companies to schedule re-testing. CenturyLink stated it conducted its own retesting and had no additional issues in completing the calls to the Numbering Plan Area Code (NPA) Central Office Exchange Code (NXX).

On October 17, 2012, AireSpring responded that it conducted a thorough search of its systems, including billing, order, carrier databases and document management systems for the queried information, but no information could be located. AireSpring stated "it can only be concluded that the numbers, individuals and/or businesses are not within AireSpring's custody or control." AireSpring further stated "any telecommunication problems or malfunctions were beyond AireSpring's ability to look at, find, correct or control in anyway."

On October 18, 2012, Dumont responded stating that on October 16, 2012, it conducted a series of tests in cooperation with technicians from Butler-Bremer Communications of Shell Rock, INS and Waverly Health Center. The tests consisted of originating voice and fax calls from the Shell Rock and Waverly facilities and terminating all calls to the voice and fax numbers at the Allison facility. Dumont reported the tests resulted in all calls terminating properly on

October 16, 2012. Dumont stated it is confident that all voice or fax calls originated at the Shell Rock location via the Butler-Bremer network terminate in Allison correctly because INS can monitor the entire route for that call type.

Dumont further stated while the test showed that the network delivered calls properly on that date, Dumont is not convinced the problem is resolved. Dumont noted Waverly Health Center staff reported experiencing this trouble for over two years and they have reported it to CenturyLink multiple times. Dumont stated the trouble is fixed immediately, but then returns after several weeks or months.

According to Dumont, AireSpring (a reseller of CenturyLink services) is the long distance provider for the Waverly facility. Butler-Bremer Communications of Shell Rock (Butler-Bremer) is the long distance provider for landlines at the Shell Rock facility, while AireSpring is the long distance provider for Iowa Communications Network at the Shell Rock facility.

On October 19, 2012, staff sent a letter to AireSpring and CenturyLink stating their responses did not help the Board understand the causes of the call termination issues on this complaint and requested more detailed information that fully explains the likely reasons why the long distance calls at issue were not terminating calls to the Rehabilitation Center.

Staff noted that its understanding of the rural call termination situation may relate to the practice of least cost routing of long distance traffic to rural areas of the country. Because rural areas traditionally have higher costs associated with the termination of long distance traffic, providers that route long distance calls may wish to avoid higher termination costs by routing long distance calls in a way to minimize costs. The practice, known as least cost routing, may ultimately result in poor service quality and lost calls.

In addition, staff noted because the record indicates that rural call termination issues may recur over time, staff believes there should be a better means for local exchange carriers to quickly and more readily address the issues when they learn that their local exchange customers are experiencing call termination issues. For this reason, staff required CenturyLink and AireSpring, Inc. to provide specific contact information (names, phone numbers, email addresses) for personnel who can expeditiously address these call routing issues when contacted.

On November 2, 2012, CenturyLink provided the following response:

CenturyLink is a long distance carrier, and a local carrier (including in rural areas), and has a strong interest in appropriately processing, and completing, long distance calls across the network, in order to meet our customers' expectations, and to provide the long distance service that they subscribe to us for. CenturyLink

processes billions of long distance minutes of use for our customers each month.

CenturyLink, along with virtually all long distance carriers, cannot have connectivity to all end points that our customers may call, and, thus, as do all other long distance carriers, CenturyLink must rely on underlying carriers, to augment our capability to complete calls to all locations, assist with handling call volumes, or provide call completion optimization options, along with our own network. These underlying carriers are often referred to as the "least cost" routers. However, CenturyLink makes requirements of our underlying carriers to test with us, and meet certain performance requirements, such that we do not generally get the "least cost" in using the underlying carriers to terminate calls for us. Additionally, CenturyLink expects that our underlying carriers complete the calls they carry, and pay the appropriate call termination charges. In the use of underlying carriers, long distance service providers utilize routing tables, to determine the routes to be used to process the calls across the network. Routing tables are set up, as is the long distance call processing, based on the customers Preferred Interexchange Carrier (PIC) and the dialed digits of the long distance calls. Because the routing can change and the tables can change it does create the possibility that call routing issues can recur. Given the complexity of the multiple networks involved in a long distance call, including the customer's in home network, the local telephone network, and the long distance network, there are many potential points along the path where a given call may experience a failure. CenturyLink has set up our Operations processes to address any call failures in our repair processes. That process was used in addressing the initial request on this issue from the IUB Staff.

In this request, the IUB Staff asks for the likely reasons why the long distance calls at issue were not terminating to the Rehabilitation Center of Allison. CenturyLink did not have any records to investigate, of calls that did not go through, and could only work with the records of the calls that did go through. The information provided here addresses those calls that it had record of having gone through. Our technicians reviewed the information provided in this report. We found calls for these telephone numbers. The calls had duration and there was no trouble report made to us by our customers regarding those calls. We additionally reviewed the routing of the calls. In the call routing for these calls, CenturyLink had used an underlying carrier. Our technician did test calls with the underlying carrier, and all calls completed successfully. However, in the interest of the concerns raised in the

report to the IUB Staff, we made a routing change for calls completing to the NPA NXX of 319 267, and tested for call completion with this change. We attempted to also retest with our customers, however at both locations we were not able to get the answering party to reply to our messages, and to re-test with us after our attempts to reach them. However, we have done our own tests, and have had no additional issues for completing our LD calls to this NPA NXX.

Also, CenturyLink provided its point of contact that investigates long distance call completion issues.

On November 7, 2012, AireSpring provided an additional response stating:

Dumont's response gave further information and I looked up the Waverly Health Center. That is one of our customers. However, it doesn't appear, per Dumont's investigation and due to the phone numbers the complainant mentioned, this is not a resold DID [dedicated inward dialing] to AireSpring. It is a CenturyLink number and is indeed where Waverly [H]ealth Centers has been reporting all their troubles, since we do not have any trouble tickets opened here over the last 18 months.

Given this information, I would have to say I agree with the findings of Dumont Telephone Company that the complainant's issues stem from result of poor origination service. In all our investigations, we have no access to this person, business or their phone/fax numbers.

AireSpring also provided its contact person information as staff requested. In addition, on November 7, 2012, AireSpring sent an email clarifying its response above. AireSpring stated:

Waverly Health Center has a point to point private line connection with Century Link. Nothing they do touches our network, ever. We are just a reseller of internet service, no call traffic at all.

Unfortunately, we would never have been in the position to help Ms. Kathy Miller or Rehabilitation Center of Allison. The most we can tell, the issue is with originating LD [long distance]. Our only connection to this is Waverly [H]ealth Center via a *private internet*.

On November 14, 2012, IUB Customer Service and IUB Telecommunications staff called CenturyLink (Mary Retka) for clarification on the responses IUB

received from CenturyLink. Ms. Retka explained that call looping may occur at any point in the call flow process after the call leaves the originating carrier's network. This is not the same as routing tables, which determine the routes to be used to process calls across the network. Routing tables are set up based on the customers PIC and the dialed digits of the long distance calls. Because the routing can change and the tables can change it does create the possibility that call routing issues can recur. Looping is not generated by the long distance routing tables.

Ms. Retka explained further that CenturyLink makes sure the calls are not looped back to CenturyLink. CenturyLink conducts regular testing to ensure this is not happening, but when new carriers are added they may/will loop back.

According to Ms. Retka, CenturyLink was not able to find the calls that Ms. Miller stated are not completing. She indicated either the calls are being dialed around or people are making the calls some other way, such as using a cell phone and not remembering how they made the call. She used an example of a hospital in Colorado where they experienced incomplete calls and after research, determined that many of the nurses were using their cell phones in between patients to make calls and not remembering how the call was made; therefore, it was not the hospital's landline phones failing to connect.

Regarding Dumont's response of 10-8-12, Ms. Retka was not sure how Dumont based its response on who the long distance carrier is. As a matter of fact, Dumont is wrong to conclude AireSpring is a reseller of CenturyLink LD to Waverly Health Center. AireSpring is not involved in any LD for this location. According to Ms. Retka, the carrier information for Waverly Health Center is confidential and unless someone obtains a release from Waverly Health Center, the carrier information is customer proprietary network information (CPNI).

Ms. Retka noted that customers can dial 700-555-4141 from the phone at the location to determine who the LD carrier is. She also stated she has worked with Dumont in the past and is not sure why they claim they don't have a contact. Ms. Retka also explained many of these situations involve the issue of VOIP convergence —moving into a new world of calling—you can plug in your Magic Jack anywhere and make a call.

Ms. Retka stated the underlying carrier was not named in CenturyLink's 10-15-12 letter because she concluded, based on her investigation, that the underlying carrier was not at fault.

Ms. Retka explained that because this situation involves a health care facility and the Board is involved, CenturyLink decided to make routing changes to the NPA NXX. This is for all traffic. CenturyLink stated the underlying carrier has to pass various testing and agree to metrics, and is not necessarily the least expensive carrier. According to Ms. Retka, CenturyLink's underlying carriers are held

accountable for not meeting CenturyLink's standards for its resellers. Ms. Retka explained, however, that trouble can recur when routing tables are updated or modified to include a new rate, for example. Ms. Retka emphasized that AireSpring is not associated with service to the Waverly Health Center.

On December 14, 2012, staff issued a proposed resolution, in which staff stated:

To address the complaint, CenturyLink made a routing change for calls completing to the area code and prefix of 319-267 and then tested for call completion. CenturyLink attempted to re-test with its customers, however, at both locations CenturyLink was not able to get the answering party to reply to its messages about re-testing. CenturyLink reports that it has performed additional testing, and there are no current issues with the completion of the long distance calls to this NPA NXX (319-267).

Based on staff's analysis of this complaint, we believe that AireSpring did not play a role as either a reseller of CenturyLink's long distance services or as an underlying carrier selected by CenturyLink to deliver long distance calls. However, if a party to the complaint can provide convincing evidence to the contrary, staff would want to know that information. We also believe that INS and Dumont Telephone did not play a role in the mis-routing of calls. The response from INS suggests that the calls in question never traversed its network. Likewise, Dumont Telephone's role as the terminating local exchange carrier seems to indicate that Dumont Telephone is not at fault for the call termination issues in this complaint.

Turning to CenturyLink, staff notes that the carrier can only investigate call records on completed calls. CenturyLink appears to have no call records to investigate when calls do not complete. It is clear that when CenturyLink learns that calls are not terminating, it can make changes to the routing tables to correct the situation. CenturyLink admits that the routing tables can change, and this creates the possibility that the call termination issues may recur. Because there are no call records to investigate for this complaint, and because routing tables change, it is not clear to staff that CenturyLink can say with certainty which of the underlying carries is to blame for the calls that did not terminate. CenturyLink appears equally frustrated by the ongoing call termination situation, and staff believes that CenturyLink is working in good-faith to address any complaints that are brought to its

attention. Staff investigation finds that it appears the immediate call termination issue has been resolved. Please continue to report any call completion issues as they occur.

Although this particular complaint involves intrastate long distance, where the Board has jurisdiction, it is generally agreed that the long-term resolution of the rural call termination situation must be addressed by the Federal Communications Commission (FCC). Additionally, on December 3, 2012, thirty-six members of the United States Senate signed a letter urging the FCC to resolve the issue.

Staff noted CenturyLink and AireSpring provided the requested internal carrier contact information to assist in resolving future call completion investigations.

On December 27, 2012, OCA filed a petition for further investigation. According to OCA, the "problems reported by the Allison facility are not unique to the Allison facility" and are occurring with sufficient frequency and affecting a sufficient number of rural consumers to justify an investigation. In support, OCA refers to the FCC's February 2012 declaratory ruling, which identified a pattern of call completion and service quality problems with long distance calls to rural areas; NARUC's July 2012 resolution, which described call completion failure rates being 13 times higher in rural areas than in non-rural areas and noted that rural call termination issues persisted; and a November 2012 press release of the National Exchange Carriers Association, which described the call completion problem as a "mounting epidemic." (OCA Request for Formal Proceeding, pp. 8-9, ¶17.)

OCA further states:

As observed in the FCC's declaratory ruling, the call completion problems can have dire consequences. Small businesses can lose customers who get frustrated when their calls don't go through. Urgent calls from friends and families can be missed. Schools may be unable to reach parents with critical alerts. Those in need of help may be unable to reach public safety officials. In addition, as here, health care facilities may be left without an ability to provide the care their patients need due to the failure of calls and faxes from one facility to another. As stated by both U.S. senators from Iowa, and 34 of their colleagues, "[w]e . . . worry it is only a matter of time before this situation leads to tragedy."

(OCA Request for Formal Proceeding, p. 9, ¶18.)

OCA explains that the FCC discussed what might be causing the call completion problem and identified possible enforcement tools for the FCC:

A. According to rural associations, the problems appear to arise from how originating carriers choose to set up the signaling and routing of their calls. In particular, many of the problems appear to lie with the underlying routing providers selected by the retail long distance carriers, including “least cost routers,” which attempt to connect calls to their destinations at the lowest cost possible. These routing practices can have the effect of blocking, choking, reducing or otherwise restricting traffic. [Footnote omitted]

B. It is an unjust and unreasonable practice in violation of section 201 of the federal Communications Act for a carrier that knows or should know that it is providing degraded service to certain areas to fail to correct the problems or to fail to ensure that intermediate providers, least cost routers, or other entities acting for or employed by the carrier are performing adequately. [Footnote omitted]

C. Adopting or perpetuating routing practices that result in lower quality services to rural or higher cost localities than in urban or lower cost localities can also constitute unjust or unreasonable discrimination in practices, facilities or services, in violation of section 202 of the federal Communications Act.

D. A carrier using an underlying provider to deliver traffic is liable for the actions of the underlying provider in blocking, choking or otherwise restricting traffic if the underlying provider is an agent or other person acting for or employed by the carrier. [Footnote omitted]

E. Violations of the federal Communications Act can trigger enforcement activity, including cease-and-desist orders, forfeitures and license revocation. [Footnote omitted]

(OCA Request for Formal Proceeding, pp. 9-10, ¶19.)

OCA further noted that in its July 2012 resolution, NARUC observes:

[i]t appears that some carriers are not taking the declaratory ruling seriously.” NARUC continues: “[t]he call termination issues seem unlikely to be resolved

unless and until a provider that has failed materially and repeatedly to route calls to destinations as sought by originating carriers faces serious consequences for such failures.”

(OCA Request for Formal Proceeding, p. 10, ¶ 20.)

OCA contends that in this case the file raises more questions than it answers and there is still no answer on who and what caused the difficulties experienced by the Allison Facility. OCA maintains there is conflicting information in the record as to the identity of the various carriers for the facilities, noting that Dumont states that AireSpring (a CenturyLink reseller) is the carrier for the Waverly facility, but AireSpring and CenturyLink deny that this the case. OCA notes that the record does not identify the carrier for either the Waverly or the Shell Rock facility. OCA further states that while CenturyLink explains that the calls were routed using an underlying carrier(s), the record does not identify the underlying carrier(s). Also, while CenturyLink explains that it imposes performance requirements on its underlying carriers and states they must pass testing and agree to metrics and standards, the record does not disclose any of that information.

Other things not established in the record, according to OCA, include the routing tables, the processes CenturyLink uses to address call failures, and information about how the routing was changed for calls intended to reach the Allison facility. In response to CenturyLink's suggestion that the dropped calls may have resulted from using cell phones or a "dial around" number to call the facility, OCA notes that it does not appear that personnel at the Shell Rock or Waverly locations have been asked about that possibility.

OCA also states that the possibility that an investigation may require accessing customer proprietary network information (CPNI) is not a reason to not pursue an investigation. OCA points out that federal law allows for disclosure of CPNI in certain situations, noting in particular exceptions that allow disclosure "to protect users. . . from fraudulent, abusive, or unlawful use of, or subscription to, such services" or disclosures "required by law." (OCA Request for Formal Proceeding, p. 12, ¶ 23, citing 42 U.S.C. §§ 222(d)(2), 222(c)(1).) OCA points to Iowa Code § 476.3, a law requiring companies to respond to complaints and suggests that protective agreements can be used to address concerns about disclosure.

OCA acknowledges the FCC plays a "central role nationally in resolving the problem long-term" (OCA Request for Formal Proceeding, p. 13, ¶ 24), but argues there is an appropriate state role in responding to the problem. OCA stresses that the Board has an interest in ensuring that calls are completed to rural destinations in Iowa and in preventing further decline in the quality of service provided in rural Iowa. Looking ahead, OCA states that further

investigation by the Board could uncover violations of the FCC's rules, which could be reported to the FCC with a request for enforcement. OCA suggests that the FCC might be more likely to act upon the results of a Board investigation (which would serve to develop the information presently missing in this case and resolve conflicts in the information). (OCA Request for Formal Proceeding, p. 13, ¶¶ 25, 26.)

Finally, OCA asserts that the Board has authority over the delivery of intrastate telecommunications services. OCA suggests that Board investigation could reveal remedial or enforcement tools already at the Board's disposal or could show a need for new law(s) or regulations. OCA emphasizes the seriousness of the call completion problem:

The failure of calls and faxes to complete affects the health, safety and welfare of Iowans. Calls for help may not be answered, and in this case a rehabilitation facility is unable to communicate with two other local health care facilities on patient needs.

An investigation will materially enhance the ability of the Board and its staff to participate on a well informed basis in ongoing workshops designed to assess the problem and effect a solution.

An investigation will materially contribute to solving the problem, because carriers will know they are being watched, with a view toward enforcement when needed.

(OCA Request for Formal Proceeding, p. 14, ¶¶ 28-30.)

On January 16, 2013, CenturyLink responded to OCA's request for formal proceeding. CenturyLink does not believe a formal proceeding is necessary. According to CenturyLink, OCA's "assertion that this type of call completion issue is a broad problem that touches the entirety of Iowa's rural areas" is an "indictment of the entire industry of IXCs, not solely a CenturyLink issue." CenturyLink believes the FCC's response to the problem is adequate and further action by the Board is not needed. CenturyLink points out that in addition to the declaratory ruling already issued by the FCC, that agency is planning to initiate another rule making proceeding to address call completion issues.

CenturyLink further states much of what the OCA asserts is speculative or not relevant to the issues raised in the Allison facility's complaint. CenturyLink restates its position that it has no evidence on its network of dropped calls to the facility and has received no complaints from its customers about specific calls that were not completed to the facility during the time period referenced in the complaint. CenturyLink emphasizes that it has no means of investigating whether calls were dropped and that its records for the relevant time show calls with duration were completed to the Allison facility. CenturyLink states that it

conducted further testing, with test calls completing properly and that tests with underlying carriers also showed that all calls completed properly. CenturyLink disputes the relevance to this complaint of other uncompleted calls referenced by OCA. CenturyLink states those anecdotes lack specificity and are not known to have originated on CenturyLink's network.

With respect to OCA's suggestion that CPNI can be obtained and protected using protective agreements, CenturyLink suggests that disclosure of CPNI would not assist in "discovering why calls *might* have been dropped on CenturyLink's network where no record of these calls exist and no complaints of dropped calls were brought to CenturyLink's attention by its customers."

CenturyLink noted it has conducted a full investigation of the alleged call completion issues and has concluded that calls from the Waverly and Shell Rock facilities are completing as required to the Allison facility. CenturyLink further noted it has a vigorous process to respond to any call completion issues as it believes it is a part of the duty it owes to customers to provide adequate service. CenturyLink states it took the following steps in this case to address the issue: (1) it fully investigated the issues raised in the complaint filed with Board; (2) it reviewed call records for the relevant time periods (and the review showed calls from the Waverly and Shell Rock facilities to the Allison facility that completed and had duration); (3) it reviewed its routing tables and changed routing; (4) it conducted testing with underlying carriers (and those tests showed that calls properly completed); and (5) it conducted test calls from the Waverly and Shell Rock facilities to the Allison facility and those calls completed properly.

CenturyLink states it will follow up on any issues raised in the future by its customers regarding the performance of their long distance service. CenturyLink also is willing to work with the Waverly and Shell Rock facilities to conduct additional testing (although it notes that those facilities did not respond to its previous attempts to conduct test calls).

CenturyLink believes that a formal proceeding is not in the public interest and is unnecessary.

II. Legal Standards

FCC Action

Both CenturyLink and OCA refer to the declaratory ruling issued by the FCC in February of 2012. In 2011, the FCC created a Rural Call Completion Task Force to investigate and address the problem of calls to rural customers which are delayed or fail to connect. The Task Force held a workshop on the issue in October of 2011, and in February 2012, the FCC issued a Declaratory Ruling responding to the issues. The FCC explained it was issuing the ruling in response to requests for action and in response to evidence showing "a pattern

of call completion and service quality problems on long distance calls to certain rural areas." The FCC intended "to clarify the scope of the Commission's prohibition on blocking, choking, reducing or restricting telephone traffic." *In the Matter of Developing an Unified Inter-carrier Compensation Regime*, CC Docket No. 01-92, Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135 (Rel. Feb. 6, 2012), "Declaratory Ruling," 27 FCC Rcd. 1351. The FCC clarified that its prohibition against blocking, choking, reducing or restricting telephone traffic extends to routing practices that have the effect of blocking, choking, etc. (Declaratory Ruling, ¶3.) The FCC also clarified that such practices may constitute unjust and unreasonable practices in violation of section 201 of the Communications Act of 1934, as amended (the Act), and/or may violate a carrier's duty to refrain from unjust or unreasonable discrimination in practices, facilities, or services. (Declaratory Ruling, ¶ 4.) Finally, the FCC emphasized that carriers are responsible for the actions of their agents or other persons acting for or employed by the carriers, i.e., underlying providers. (Declaratory Ruling, ¶¶ 4, 15.)

The FCC explained that it can take appropriate enforcement action pursuant to its statutory authority, including cease-and-desist orders, forfeitures, and license revocations, against carriers engaging in the prohibited activities discussed in the Declaratory Ruling.

Staff's proposed resolution in this case refers to a December 3, 2012, letter signed by 36 United States Senators addressed to FCC Chairman Genachowski urging the FCC to resolve the issue. That letter refers to the FCC's Declaratory Ruling and subsequent enforcement efforts, noting that the FCC "has been investigating call termination problems since fall 2011 and has developed online portals for consumers and providers to report problems." The signatories urged the FCC to "release a summary of its investigation and the information it has gathered in aggregate form that protects the privacy of consumers and individual companies' confidential information." The Senators also asked the FCC, in the event an originating provider is suspected of violating the Declaratory Ruling, to "expedite its investigation by requiring the originating provider to submit network performance data" including an analysis of call completion rates. In cases where the FCC suspects an originating provider is failing to properly deliver calls to rural areas, the Senators urged the FCC to require the originating provider to report whether it has used a least cost routing service.

In its most recent response to the complaint, CenturyLink noted that the FCC is planning another NPRM to deal with the call completion issue. On February 7, 2013, the FCC released the NPRM. *In re: Rural Call Completion*, WC Docket No. 13-39, FCC 13-18 (Call Completion NPRM). The FCC seeks comment on rules to help address problems in completion of long-distance calls to rural customers. The FCC mentions evidence that retail long-distance providers may not be adequately examining the rural call completion performance that results from use of wholesale call delivery services by intermediate providers employed

by the long-distance providers. The FCC intends to "consider measures to improve the Commission's ability to monitor the delivery of long-distance calls to rural areas and aid enforcement action." (Call Completion NPRM, ¶ 3.)

Noting a problem with a lack of data that impedes investigations (NPRM, ¶ 17), the FCC seeks comment on reporting and data retention requirements that would give the Commission information about a long distance provider's performance to certain areas. The FCC proposes to adopt rules that would require originating long-distance voice service providers to collect and retain basic information on call attempts and to periodically analyze and summarize call completion and report the results to the Commission." (¶ 17.)

The agency also seeks comment on how the burden of compliance with the rules can be minimized, "particularly for originating providers whose call-routing practices do not appear to cause significant call completion problems." (Call Completion NPRM, ¶ 3.)

In the NPRM, the FCC reviews the steps it has taken so far in response to the call completion problem. The FCC states it is conducting ongoing investigations of several long-distance providers and addressing daily operational problems reported by rural customers. (¶11.) The FCC describes the Web-based complaint intake process which allows rural customers and carriers to alert the Commission about call completion problems and instructs them on how to file complaints.

NARUC representatives recently sent a letter dated February 11, 2013, to the FCC urging the agency to take immediate action against carriers acting contrary to the FCC call completion Declaratory Order. NARUC observes that since the FCC issued the Declaratory Order, the agency has not issued any cease-and-desist orders, forfeitures, license revocations, or fines. The letter notes that "it is not unreasonable to expect enforcement activity in the face of continued and arguably increasing problems."

III. Analysis

Iowa Code § 476.3(1) provides that a public utility shall furnish "reasonably adequate service" in accordance with tariffs filed with the Board. That section also provides, in relevant part, that when Consumer Advocate files a petition for formal proceeding with the Board, the Board shall grant the petition if the Board determines that "there is any reasonable ground for investigating the complaint." Reasonable grounds for further investigation exist when the Board has received multiple complaints against a single company regarding the same subject matter in a relatively short time frame and there are numerous unanswered questions regarding the precise circumstances of this complaint. (Presently, staff is working on four other informal complaints involving CenturyLink in which call completion problems are alleged.)

Staff believes there are sufficient grounds to open a docket to conduct further investigation into this particular complaint. Staff agrees with OCA that CenturyLink's response and the responses of other carriers involved have not answered all of the questions that the case presents. Staff does not believe that the record to date provides enough specific information for staff and the Board to fully understand the roles and responsibilities of the various providers in causing (or correcting) the problems experienced by staff at the Allison facility and related facilities. For example, it appears that CenturyLink has not yet provided as much information about the call completion problems in this case as it appears to have access to, e.g., the identity of its underlying carriers. Staff anticipates that further investigation will allow the Board to better understand whether carriers in this particular case have adequately responded to the call completion problems at issue.

Docketing the complaint for further investigation would enable the Board to gather more specific information about CenturyLink's use of (and standards for) underlying carriers and extent to which use of certain underlying carriers and routing practices have contributed to call completion problems.

IV. Recommendation

Staff recommends that the Board grant OCA's petition for formal proceeding and retain the case for its own consideration instead of assigning the case to the Administrative Law Judge. Staff's opinion is that investigation of this complaint may require a comprehensive examination of call routing issues and is thus appropriate for the Board's consideration.

RECOMMENDATION APPROVED

IOWA UTILITIES BOARD

/tgp

<u>/s/ Elizabeth S. Jacobs</u>	<u>2-18-13</u>
	Date

<u>/s/ Darrell Hanson</u>	<u>2/19/13</u>
	Date

<u>/s/ Swati A. Dandekar</u>	<u>2-19-13</u>
	Date